# UNIFORM FAITHFUL PRESIDENTIAL ELECTORS ACT

2011 HB 638	Uniform Act	Current NC Law	Staff Notes
No comparable provision	<b>SECTION 1. SHORT TITLE.</b> This	No comparable provision	
	[act] may be cited as the Uniform		
	Faithful Presidential Electors Act.		
No comparable provision	SECTION 2. DEFINITIONS.	No comparable provision	
	In this [act]:		
	(1) "Cast" means accepted by the		
	[Secretary of State] in accordance with		
	Section 7(b).		
	(2) "Elector" means an individual		
	selected as a presidential elector under		
	[applicable state statute] and this [act].		
	(3) "President" means President of the		
	United States.		
	(4) ["Unaffiliated presidential candidate"		
	means a candidate for President who		
	qualifies for the general election ballot in		
	this state by means other than nomination		
	by a political party.]		
	[(5)] "Vice President" means Vice		
8.4.62.84.64. D. 1	President of the United States.	9.472.4 (7)	TTI CI C
§ 163-216.1. Designation of State's	SECTION 3. DESIGNATION OF	§ 163-1. Time of regular elections and	The first sentence of
electors.	STATE'S ELECTORS.	primaries.	Section 3 of the UFPEA
(a) For each elector position in this	For each elector position in this state, a		requires each party [or
State, a political party contesting the	political party contesting the position [,	(c) On Tuesday next after the first	unaffiliated candidate]
position, or an unaffiliated presidential	or an unaffiliated presidential candidate,]	Monday in November in the year 1968,	to submit an elector and
candidate, shall submit to the Secretary	shall submit to the [Secretary of State]	and every four years thereafter, or on	alternate elector for each
of State the names of two qualified individuals. One of the individuals must	the names of two qualified individuals.  One of the individuals must be	such days as the Congress of the United States shall direct, an election shall be	elector position, or 30 names total.
		· · · · · · · · · · · · · · · · · · ·	names total.
be designated "elector nominee" and the	designated "elector nominee" and the	held in all of the election precincts of the State for the election of electors of	As highlighted in C.S.
other "alternate elector nominee." Except as otherwise provided in this Article, this	other "alternate elector nominee". Except as otherwise provided in Sections 5	President and Vice President of the	As highlighted in G.S. 163-1(c), current law
State's electors are the winning elector	through 8, this state's electors are the	United States. The number of electors to	requires each party to
nominees under the laws of this State.	winning elector nominees under the laws	be chosen shall be equal to the number of	nominate an elector for
(b) The names of candidates for	of this state.	Senators and Representatives in	each elector position,
electors of President and Vice President	or this state.	Congress to which this State may be	plus two alternate
Cicciois of Freshacili and Vice Freshacili		Congress to which this State may be	prus two atternate

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nominated by any political party		entitled. Presidential electors shall not be	electors total, or 18
recognized in this State under G.S. 163-		nominated by primary election; instead,	names total. (NC
96, or nominated under G.S. 163-1(c) by		they shall be nominated in a State	currently has two
a candidate for President of the United		convention of each political party as	senators and 13
States who has qualified to have his or		defined in G.S. 163-96 unless otherwise	representatives, for a
her name printed on the general election		provided by the plan of organization of	total of 15 electors. For
ballot as an unaffiliated candidate under		the political party; provided, that in the	the 2022 election, NC
G.S. 163-122, shall be filed with the		case of a candidate for President of the	will have two senators
Secretary of State but shall not be printed		United States who has qualified to have	and 14 representatives,
on the ballot. In the case of the		his name printed on the general election	for a total of 16
unaffiliated candidate, the names of		ballot as an unaffiliated candidate under	electors.)
candidates for electors must be filed with		G.S. 163-122, that candidate shall	
the Secretary of State no later than 12:00		nominate presidential electors. One	The second sentence of
noon on the first Friday in August. In		presidential elector shall be nominated	Section 3 of the UFPEA
place of their names, there shall be		from each congressional district and two	compares to the
printed on the ballot the names of the		from the state at large, and in addition,	highlighted final
candidates for President and Vice		the State convention of each party and	sentence of G.S. 163-
President of each political party		the unaffiliated candidate shall each	209(a).
recognized in this State and the name of		nominate first and second alternate	
any candidate for President who has		electors who shall serve if their slate is	HB 638 adopted Section
qualified to have his or her name printed		elected as provided by G.S. 163-209 and	3 of UFPEA as new
on the general election ballot under G.S.		if there is a vacancy as provided by G.S.	G.S. 163-216.1(a), while
163-122. A candidate for President who		163- <u>2</u> 10.	also keeping G.S. 163-
has qualified for the general election		§ 163-209. Names of presidential	209(a) as new G.S. 163-
ballot as an unaffiliated candidate under		electors not printed on ballots;	216.1(b).
G.S. 163-122 shall, no later than 12:00		notification.	
noon on the first Friday in August, file		(a) The names of candidates for	
with the State Board of Elections the		electors of President and Vice President	
name of a candidate for Vice President,		nominated by any political party	
whose name shall also be printed on the		recognized in this State under G.S. 163-	
ballot. A vote for the candidates named		96, or nominated under G.S. 163-1(c) by	
on the ballot shall be a vote for the		a candidate for President of the United	
electors of the party or unaffiliated		States who has qualified to have his or	
candidate by which those candidates		her name printed on the general election	
were nominated and whose names have		ballot as an unaffiliated candidate under	
been filed with the Secretary of State.		G.S. 163-122, shall be filed with the	

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		Secretary of State but shall not be printed	
		on the ballot. In the case of the	
		unaffiliated candidate, the names of	
		candidates for electors must be filed with	
		the Secretary of State no later than 12:00	
		noon on the first Friday in August. In	
		place of their names, there shall be	
		printed on the ballot the names of the	
		candidates for President and Vice	
		President of each political party	
		recognized in this State, and the name of	
		any candidate for President who has	
		qualified to have his or her name printed	
		on the general election ballot under G.S.	
		163-122. A candidate for President who	
		has qualified for the general election	
		ballot as an unaffiliated candidate under	
		G.S. 163-122 shall, no later than 12:00	
		noon on the first Friday in August, file	
		with the State Board of Elections the	
		name of a candidate for Vice President,	
		whose name shall also be printed on the	
		ballot. A vote for the candidates named	
		on the ballot shall be a vote for the	
		electors of the party or unaffiliated	
		candidate by which those candidates	
		were nominated and whose names have	
		been filed with the Secretary of State.	
§ 163-216.2. Pledge.	SECTION 4. PLEDGE. Each elector	§ 163-210. Governor to proclaim	Current law contains no
Each elector nominee and alternate	nominee and alternate elector nominee of	results; casting State's vote for	pledge requirement.
elector nominee of a political party shall	a political party shall execute the	President and Vice President.	However, under G.S.
execute the following pledge: "If selected	following pledge: "If selected for the		163-210, any elector can
for the position of elector, I agree to	position of elector, I agree to serve and to	At any time prior to receipt of the	resign prior to receiving
serve and to mark my ballots for	mark my ballots for President and Vice	certificate of the Governor or within 48	a copy of the certificate
President and Vice President for the	President for the nominees for those	hours thereafter, any person elected to	of ascertainment, or

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nominees for those offices of the party	offices of the party that nominated me."	the office of elector may resign by	within 48 hours after
that nominated me." Each elector	[Each elector nominee and alternate	submitting his resignation, written and	receiving it. Failure to
nominee and alternate elector nominee of	elector nominee of an unaffiliated	duly verified, to the Governor. Failure to	resign signifies consent
an unaffiliated presidential candidate	presidential candidate shall execute the	so resign shall signify consent to serve	to vote for the candidate
shall execute the following pledge: "If	following pledge: "If selected for the	and to cast his vote for the candidate of	of the party that
selected for the position of elector as a	position of elector as a nominee of an	the political party which nominated such	nominated the elector.
nominee of an unaffiliated presidential	unaffiliated presidential candidate, I	elector.	
candidate, I agree to serve and to mark	agree to serve and to mark my ballots for		There is a requirement
my ballots for that candidate and for that	that candidate and for that candidate's		in G.S. 11-7 that "every
candidate's vice presidential running	vice-presidential running mate."] The		person elected or
mate." The executed pledges must	executed pledges must accompany the		appointed to hold any
accompany the submission of the	submission of the corresponding names		office of trust or profit"
corresponding names to the Secretary of	to the [Secretary of State].		take an oath to support
State.			the US Constitution and
			NC Constitution.
§ 163-216.3. Governor to proclaim	<b>SECTION 5. CERTIFICATION OF</b>	§ 163-210. Governor to proclaim	Current G.S. 163-210
results; casting State's vote for	ELECTORS.	results; casting State's vote for	and HB 638 (as a new
President and Vice President.	In submitting this state's certificate of	President and Vice President.	G.S. 163-216.4(a))
Upon receipt of the certifications	ascertainment as required by 3 U.S.C.	Upon receipt of the certifications	require that the
prepared by the State Board of Elections	Section 6, the [Governor] shall certify	prepared by the State Board of Elections	Governor (i) submit to
and delivered in accordance with G.S.	this state's electors and state in the	and delivered in accordance with G.S.	the Archivist of the US a
163-182.15, the Secretary of State, under	certificate that:	163-182.15, the Secretary of State, under	certificate of
seal of the office, shall notify the	(1) the electors will serve as electors	seal of the office, shall notify the	ascertainment to
Governor of the names of the persons	unless a vacancy occurs in the office of	Governor of the names of the persons	communicate the
elected to the office of elector for	elector before the end of the meeting at	elected to the office of elector for	electors appointed,
President and Vice President of the	which elector votes are cast, in which	President and Vice President of the	listing them by name
United States as stated in the abstracts of	case a substitute elector will fill the	United States as stated in the abstracts of	and the number of votes
the State Board of Elections. Thereupon,	vacancy; and	the State Board of Elections. Thereupon,	cast for each one, and
the Governor shall immediately issue a	(2) if a substitute elector is appointed to	the Governor shall immediately issue a	(ii) deliver the certificate
proclamation setting forth the names of	fill a vacancy, the [Governor] will submit	proclamation setting forth the names of	to each elector when
the electors and instructing them to be	an amended certificate of ascertainment	the electors and instructing them to be	submitting it. These
present in the old Hall of the House of	stating the names on the final list of this	present in the old Hall of the House of	tasks are also required
Representatives in the State Capitol in	state's electors.	Representatives in the State Capitol in	by federal law in 3
the City of Raleigh at 12:00 noon on the		the City of Raleigh at noon on the first	U.S.C. § 6.
first Monday after the second		Monday after the second Wednesday in	
Wednesday in December next after their		December next after their election, at	

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election, at which time the electors shall		which time the electors shall meet and	While not required in
meet and vote on behalf of the State for		vote on behalf of the State for President	state or federal law, the
President and Vice President of the		and Vice President of the United States.	2016 and 2020 NC
United States. If the old Hall of the		The Governor shall cause this	certificates of
House of Representatives in the State		proclamation to be published in the daily	ascertainment listed the
Capitol is unavailable, the Governor may		newspapers published in the City of	two alternate electors,
specify another location within the City		Raleigh. Notice may additionally be	along with the chosen
of Raleigh. The Governor shall cause this		made on a radio or television station or	electors.
proclamation to be published on the		both, but such notice shall be in addition	
Internet and in any daily newspaper		to the newspaper and other required	HB 638 adopted Section
published in the City of Raleigh and shall		notice. The Secretary of State is	5 of UFPEA as new
cause the proclamation to be distributed		responsible for making the actual	G.S. 163-216.4(b).
to representatives of the news media.		arrangements for the meeting, preparing	
Notice may additionally be made on a		the agenda, and inviting guests.	
radio or television station or both, but		Before the date fixed for the meeting of	
such notice shall be in addition to the		the electors, the Governor shall send by	
newspaper and other required notice. The		registered mail to the Archivist of the	
Secretary of State is responsible for		United States, either three duplicate	
making the actual arrangements for the		original certificates, or one original	
meeting, preparing the agenda, and		certificate and two authenticated copies	
inviting guests.		of the Certificates of Ascertainment,	
§ 163-216.4. Certification of electors.		under the great seal of the State setting	
(a) Before the date fixed for the		forth the names of the persons chosen as	
meeting of the electors, the Governor		presidential electors for this State and the	
shall send by registered mail to the		number of votes cast for each. These	
Archivist of the United States either three		Certificates of Ascertainment should be	
duplicate original certificates or one		sent as soon as possible after the election,	
original certificate and two authenticated		but must be received before the Electoral	
copies of the Certificates of		College meeting. At the same time the	
Ascertainment under the great seal of the		Governor shall deliver to the electors six	
State setting forth the names of the		duplicate originals of the same	
persons chosen as presidential electors		certificate, each bearing the great seal of	
for this State and the number of votes		the State. At any time prior to receipt of	
cast for each. These Certificates of		the certificate of the Governor or within	
Ascertainment should be sent as soon as		48 hours thereafter, any person elected to	
possible after the election, but must be		the office of elector may resign by	

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received before the Electoral College		submitting his resignation, written and	
meeting. At the same time the Governor		duly verified, to the Governor. Failure to	
shall deliver to the electors six duplicate		so resign shall signify consent to serve	
originals of the same certificate, each		and to cast his vote for the candidate of	
bearing the great seal of the State.		the political party which nominated such	
(b) In submitting this State's		elector.	
Certificate of Ascertainment as required			
by 3 U.S.C. § 6, the Governor shall			
certify this State's electors and state in			
the certificate all of the following:			
(1) The electors will serve as electors			
unless a vacancy occurs in the office of			
elector before the end of the meeting at			
which elector votes are cast, in which			
case a substitute elector will fill the			
vacancy.			
(2) If a substitute elector is appointed			
to fill a vacancy, the Governor will			
submit an amended Certificate of			
Ascertainment stating the names on the			
final list of this State's electors.			
§ 163-216.5. Presiding officer; elector	SECTION 6. PRESIDING OFFICER;	§ 163-210. Governor to proclaim	
vacancy.	ELECTOR VACANCY.	results; casting State's vote for	
(a) The Secretary of State shall	(a) The [Secretary of State] shall preside	President and Vice President.	
preside at the meeting of electors	at the meeting of electors described in		
described in this Article.	Section 7.	In case of the absence, ineligibility or	
(b) The position of an elector not	(b) The position of an elector not present	resignation of any elector chosen, or if	
present to vote is vacant. The Secretary	to vote is vacant. The [Secretary of State]	the proper number of electors shall for	
of State shall appoint an individual as a	shall appoint an individual as a substitute	any cause be deficient, the first and	
substitute elector to fill a vacancy as	elector to fill a vacancy as follows:	second alternates, respectively, who were	
follows:	(1) if the alternate elector is present to	nominated under G.S. 163-1(c), shall fill	
(1) If the alternate elector is present	vote, by appointing the alternate elector	the first two vacancies. If the alternates	
to vote, by appointing the alternate	for the vacant position;	are absent, ineligible, resign, or were not	
elector for the vacant position.	(2) if the alternate elector for the vacant	chosen, or if there are more than two	
(2) If the alternate elector for the	position is not present to vote, by	vacancies, then the electors present at the	
vacant position is not present to vote, by	appointing an elector chosen by lot from	required meeting shall forthwith elect	

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appointing an elector chosen by lot from	among the alternate electors present to	from the citizens of the State a sufficient	
among the alternate electors present to	vote who were nominated by the same	number of persons to fill the deficiency,	
vote who were nominated by the same	political party [or unaffiliated	and the persons chosen shall be deemed	
political party.	presidential candidate];	qualified electors to vote for President	
(3) If the number of alternate	(3) if the number of alternate electors	and Vice President of the United States.	
electors present to vote is insufficient to	present to vote is insufficient to fill any		
fill any vacant position under	vacant position pursuant to paragraphs		
subdivisions (1) and (2) of this	(1) and (2), by appointing any		
subsection, by appointing any	immediately available individual who is		
immediately available individual who is	qualified to serve as an elector and		
qualified to serve as an elector and	chosen through nomination by and		
chosen through nomination by and	plurality vote of the remaining electors,		
plurality vote of the remaining electors,	including nomination and vote by a		
including nomination and vote by a	single elector if only one remains;		
single elector if only one remains.	(4) if there is a tie between at least two		
(4) If there is a tie between at least	nominees for substitute elector in a vote		
two nominees for substitute elector in a	conducted under paragraph (3), by		
vote conducted under subdivision (3) of	appointing an elector chosen by lot from		
this subsection, by appointing an elector	among those nominees; or		
chosen by lot from among those	(5) if all elector positions are vacant and		
nominees.	cannot be filled pursuant to paragraphs		
(5) If all elector positions are vacant	(1) through (4), by appointing a single		
and cannot be filled pursuant to	presidential elector, with remaining		
subdivisions (1) through (4) of this	vacant positions to be filled under		
subsection, by appointing a single	paragraph (3) and, if necessary,		
presidential elector, with remaining	paragraph (4).		
vacant positions to be filled under	(c) To qualify as a substitute elector		
subdivision (3) of this subsection and, if	under subsection (b), an individual who		
necessary, subdivision (4) of this	has not executed the pledge required		
subsection.	under Section 4 shall execute the		
(c) To qualify as a substitute elector	following pledge: "I agree to serve and to		
under subsection (b) of this section, an	mark my ballots for President and Vice		
individual who has not executed the	President consistent with the pledge of		
pledge required under G.S. 163-216.2	the individual to whose elector position I		
shall execute the following pledge: "I	have succeeded.".		
agree to serve and to mark my ballots for			

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President and Vice President consistent			
with the pledge of the individual to			
whose elector position I have			
succeeded."			
§ 163-216.6. Elector voting.	SECTION 7. ELECTOR VOTING.	§ 163-212. Penalty for failure of	Under current law,
(a) At the time designated for elector	(a) At the time designated for elector	presidential elector to attend and vote.	failure to vote for the
voting and after all vacant positions have	voting and after all vacant positions have	Any presidential elector having	candidate of the party
been filled under G.S. 163-216.5, the	been filled under Section 6, the	previously signified his consent to serve	that nominated the
Secretary of State shall provide each	[Secretary of State] shall provide each	as such, who fails to attend and vote for	elector constitutes
elector with a presidential and a vice	elector with a presidential and a vice-	the candidate of the political party which	resignation. The vote is
presidential ballot. The elector shall mark	presidential ballot. The elector shall mark	nominated such elector, for President and	not recorded, and a \$500
the elector's presidential and vice	the elector's presidential and vice-	Vice President of the United States at the	penalty is assessed
presidential ballots with the elector's	presidential ballots with the elector's	time and place directed in G.S. 163-210	against the elector.
votes for the offices of President and	votes for the offices of President and	(except in case of sickness or other	
Vice President, respectively, along with	Vice President, respectively, along with	unavoidable accident) shall forfeit and	
the elector's signature and the elector's	the elector's signature and the elector's	pay to the State five hundred dollars	
legibly printed name.	legibly printed name.	(\$500.00), to be recovered by the	
(b) Each elector shall present both	(b) Except as otherwise provided by law	Attorney General in the Superior Court	
completed ballots to the Secretary of	of this state other than this [act], each	of Wake County. In addition to such	
State, who shall examine the ballots and	elector shall present both completed	forfeiture, refusal or failure to vote for	
accept as cast all ballots of electors	ballots to the [Secretary of State], who	the candidates of the political party	
whose votes are consistent with their	shall examine the ballots and accept as	which nominated such elector shall	
pledges executed under this Article. The	cast all ballots of electors whose votes	constitute a resignation from the office of	
Secretary of State may not accept and	are consistent with their pledges	elector, his vote shall not be recorded,	
may not count either an elector's	executed under Section 4 or 6(c). Except	and the remaining electors shall	
presidential or vice presidential ballot if	as otherwise provided by law of this state	forthwith fill such vacancy as	
the elector has not marked both ballots or	other than this [act], the [Secretary of	hereinbefore provided.	
has marked a ballot in violation of the	State] may not accept and may not count	The clear proceeds of forfeitures	
elector's pledge.	either an elector's presidential or vice-	provided for in this section shall be	
(c) An elector who refuses to present	presidential ballot if the elector has not	remitted to the Civil Penalty and	
a ballot, presents an unmarked ballot, or	marked both ballots or has marked a	Forfeiture Fund in accordance with G.S.	
presents a ballot marked in violation of	ballot in violation of the elector's pledge.	115C-457.2.	
the elector's pledge executed under this	(c) An elector who refuses to present a		
Article vacates the office of elector,	ballot, presents an unmarked ballot, or		
creating a vacant position to be filled	presents a ballot marked in violation of		
under G.S. 163-216.5.	the elector's pledge executed under		

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(d) The Secretary of State shall	Section 4 or 6(c) vacates the office of		
distribute ballots to and collect ballots	elector, creating a vacant position to be		
from a substitute elector and repeat the	filled under Section 6.		
process under this section of examining	(d) The [Secretary of State] shall		
ballots, declaring and filling vacant	distribute ballots to and collect ballots		
positions as required, and recording	from a substitute elector and repeat the		
appropriately completed ballots from the	process under this section of examining		
substituted electors until all of this State's	ballots, declaring and filling vacant		
electoral votes have been cast and	positions as required, and recording		
recorded.	appropriately completed ballots from the		
	substituted electors, until all of this		
	state's electoral votes have been cast and		
	recorded.		
§ 163-216.7. Elector replacement;	SECTION 8. ELECTOR	No comparable provision.	Under 3 U.S.C. § 9, the
associated certificates.	REPLACEMENT; ASSOCIATED		electors sign and submit
(a) After the vote of this State's	CERTIFICATES.		certificates of the votes
electors is completed, if the final list of	(a) After the vote of this state's electors		given by them.
electors differs from any list that the	is completed, if the final list of electors		
Governor previously included on a	differs from any list that the [Governor]		
Certificate of Ascertainment prepared	previously included on a certificate of		
and transmitted under 3 U.S.C. § 6, the	ascertainment prepared and transmitted		
Secretary of State immediately shall	under 3 U.S.C. Section 6, the [Secretary		
prepare an amended Certificate of	of State] immediately shall prepare an		
Ascertainment and transmit it to the	amended certificate of ascertainment and		
Governor for the Governor's signature.	transmit it to the [Governor] for the		
(b) The Governor immediately shall	[Governor's] signature.		
deliver the signed amended Certificate of	(b) The [Governor] immediately shall		
Ascertainment to the Secretary of State	deliver the signed amended certificate of		
and a signed duplicate original of the	ascertainment to the [Secretary of State]		
amended Certificate of Ascertainment to	and a signed duplicate original of the		
all individuals entitled to receive this	amended certificate of ascertainment to		
State's Certificate of Ascertainment,	all individuals entitled to receive this		
indicating that the amended Certificate of	state's certificate of ascertainment,		
Ascertainment is to be substituted for the	indicating that the amended certificate of		
Certificate of Ascertainment previously	ascertainment is to be substituted for the		
submitted.			

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(c) The Secretary of State shall	certificate of ascertainment previously		
prepare a certificate of vote. The electors	submitted.		
on the final list shall sign the certificate.	(c) The [Secretary of State] shall prepare		
The Secretary of State shall process and	a certificate of vote. The electors on the		
transmit the signed certificate with the	final list shall sign the certificate. The		
amended Certificate of Ascertainment	[Secretary of State] shall process and		
under 3 U.S.C. §§ 9, 10, and 11.	transmit the signed certificate with the		
	amended certificate of ascertainment		
	under 3 U.S.C. Sections 9, 10, and 11.		
No comparable provision.	SECTION 9. UNIFORMITY OF	Not applicable.	
	APPLICATION AND		
	CONSTRUCTION.		
	In applying and construing this uniform		
	act, consideration must be given to the		
	need to promote uniformity of the law		
	with respect to its subject matter among		
	states that enact it.		
No comparable provision.	No comparable provision.	§ 163-208. Conduct of presidential	
		election.	
		Unless otherwise provided, the election	
		of presidential electors shall be	
		conducted and the returns made in the	
		manner prescribed by this Chapter for the	
		election of State officers.	
§ 163-216.1. Designation of State's	No comparable provision, except for the	§ 163-209(a). Names of presidential	
electors.	last sentence, which is shown previously	electors not printed on ballots;	
	in the chart as the last sentence under	notification.	
(b) The names of candidates for	Section 3.	(a) The names of candidates for	
electors of President and Vice President		electors of President and Vice President	
nominated by any political party		nominated by any political party	
recognized in this State under G.S. 163-		recognized in this State under G.S. 163-	
96, or nominated under G.S. 163-1(c) by		96, or nominated under G.S. 163-1(c) by	
a candidate for President of the United		a candidate for President of the United	
States who has qualified to have his or		States who has qualified to have his or	
her name printed on the general election		her name printed on the general election	
ballot as an unaffiliated candidate under		ballot as an unaffiliated candidate under	

2011 HB 638	Uniform Act	Current NC Law	Staff Notes
G.S. 163-122, shall be filed with the		G.S. 163-122, shall be filed with the	
Secretary of State but shall not be printed		Secretary of State but shall not be printed	
on the ballot. In the case of the		on the ballot. In the case of the	
unaffiliated candidate, the names of		unaffiliated candidate, the names of	
candidates for electors must be filed with		candidates for electors must be filed with	
the Secretary of State no later than 12:00		the Secretary of State no later than 12:00	
noon on the first Friday in August. In		noon on the first Friday in August. In	
place of their names, there shall be		place of their names, there shall be	
printed on the ballot the names of the		printed on the ballot the names of the	
candidates for President and Vice		candidates for President and Vice	
President of each political party		President of each political party	
recognized in this State and the name of		recognized in this State, and the name of	
any candidate for President who has		any candidate for President who has	
qualified to have his or her name printed		qualified to have his or her name printed	
on the general election ballot under G.S.		on the general election ballot under G.S.	
163-122. A candidate for President who		163-122. A candidate for President who	
has qualified for the general election		has qualified for the general election	
ballot as an unaffiliated candidate under		ballot as an unaffiliated candidate under	
G.S. 163-122 shall, no later than 12:00		G.S. 163-122 shall, no later than 12:00	
noon on the first Friday in August, file		noon on the first Friday in August, file	
with the State Board of Elections the		with the State Board of Elections the	
name of a candidate for Vice President,		name of a candidate for Vice President,	
whose name shall also be printed on the		whose name shall also be printed on the	
ballot. A vote for the candidates named		ballot. A vote for the candidates named	
on the ballot shall be a vote for the		on the ballot shall be a vote for the	
electors of the party or unaffiliated		electors of the party or unaffiliated	
candidate by which those candidates		candidate by which those candidates	
were nominated and whose names have		were nominated and whose names have	
been filed with the Secretary of State.		been filed with the Secretary of State.	
§ 163-216.8. Electors and dual office	No comparable provision.	§ 163-209(b). Names of presidential	
holding.		electors not printed on ballots;	
(a) Upon receiving the filing of a		notification.	
name as a candidate for elector under			
G.S. 163-216.1, the Secretary of State		(b) Upon receiving the filing of a	
shall notify that candidate of the dual		name as a candidate for elector under this	
office holding requirements of the North		section, the Secretary of State shall	

Staff Note: Certain comparative language is highlighted for ease in locating it.

2011 HB 638	Uniform Act	Current NC Law	Staff Notes
Carolina Constitution and the General		notify that candidate of the dual office	
Statutes, including specifically that if an		holding requirements of the North	
individual elected as elector holds		Carolina Constitution and the General	
another elective office at the time of		Statutes, including specifically that if a	
taking the oath of office as elector, that		person elected as elector holds another	
other office is vacated upon taking the		elective office at the time of taking the	
oath of office.		oath of office as elector, that other office	
		is vacated upon taking the oath of office.	
§ 163-216.8. Electors and dual office	No comparable provision.	§ 163-209.1. Notification of political	
holding.		parties of dual office holding rules.	
		During January of each year in which	
(b) During January of each year in		electors are elected, the Secretary of	
which electors are elected, the Secretary		State shall notify each political party	
of State shall notify each political party		authorized to nominate electors of (i) the	
authorized to nominate electors of (i) the		requirement under G.S. 163-1(c) to	
requirement under G.S. 163-1(c) to		nominate first and second alternate	
nominate an elector and an alternate		electors, and (ii) the dual office holding	
elector and (ii) the dual office holding		requirements of the North Carolina	
requirements of the North Carolina		Constitution and the General Statutes,	
Constitution and the General Statutes,		including specifically that if a person	
including specifically that if a person		elected as elector holds another elective	
elected as elector holds another elective		office at the time of taking the oath of	
office at the time of taking the oath of		office as elector, that other office is	
office as elector, that other office is		vacated upon taking the oath of office.	
vacated upon taking the oath of office.			
§ 163-216.8. Electors and dual office	No comparable provision.	§ 163-209.2. Elector may be held in	
holding.		addition to other appointive offices.	
		The office of elector may be held in	
(c) The office of elector may be held		addition to the maximum number of	
in addition to the maximum number of		appointive offices allowed by G.S. 128-	
appointive offices allowed by G.S. 128-		1.1.	
1.1.			
No comparable provision.	No comparable provision.	§ 163-211. Compensation of	
		presidential electors.	

2011 HB 638	Uniform Act	Current NC Law	Staff Notes
		Presidential electors shall be paid, for	
		attending the meeting held in the City of	
		Raleigh on the first Monday after the	
		second Wednesday in December next	
		after their election, the sum of forty four	
		dollars (\$44.00) per day and traveling	
		expenses at the rate of seventeen cents	
		(17¢) per mile in going to and returning	
		home from the required meeting.	
§ 163-216.9. Appointment of	No comparable provision.	§ 163-213. Appointment of	G.S. 163-213(a) utilizes
Presidential Electors by General		Presidential Electors by General	the safe harbor of 3
Assembly in certain		Assembly in certain circumstances, by	U.S.C. § 5: If prior-
circumstances, by the Governor in		the Governor in certain other	existing State law
certain other circumstances.		circumstances.	provides a means for
(a) Appointment by General		(a) Appointment by General	determining the
Assembly if No Proclamation by Six		Assembly if No Proclamation by Six	appointment of electors
Days Before Electors' Meeting Day. – As		Days Before Electors' Meeting Day. – As	when the appointment is
permitted by 3 U.S.C. § 2, whenever the		permitted by 3 U.S.C. § 2, whenever the	in controversy, an
appointment of any Presidential Elector		appointment of any Presidential Elector	appointment of electors
has not been proclaimed under G.S. 163-		has not been proclaimed under G.S. 163-	determined under that
216.3 before 12:00 noon on the date for		210 before noon on the date for settling	law at least six days
settling controversies specified by 3		controversies specified by 3 U.S.C. § 5,	prior to the meeting of
U.S.C. § 5, and upon the call of an extra		and upon the call of an extra session	electors is conclusive.
session pursuant to the North Carolina		pursuant to the North Carolina	
Constitution for the purposes of this		Constitution for the purposes of this	
section, the General Assembly may fill		section, the General Assembly may fill	
the position of any Presidential Electors		the position of any Presidential Electors	
whose election is not yet proclaimed.		whose election is not yet proclaimed.	
(b) Appointment by Governor if No		(b) Appointment by Governor if No	
Appointment by the Day Before Electors'		Appointment by the Day Before Electors'	
Meeting Day. – If the appointment of any		Meeting Day. – If the appointment of any	
Presidential Elector has not been		Presidential Elector has not been	
proclaimed under G.S. 163-216.3 before		proclaimed under G.S. 163-210 before	
12:00 noon on the date for settling		noon on the date for settling	
controversies specified by 3 U.S.C. § 5,		controversies specified by 3 U.S.C. § 5,	
nor appointed by the General Assembly		nor appointed by the General Assembly	

2011 HB 638	Uniform Act	Current NC Law	Staff Notes
by 12:00 noon on the day before the day		by noon on the day before the day set for	
set for the meeting of Presidential		the meeting of Presidential Electors by 3	
Electors by 3 U.S.C. § 7, then the		U.S.C. § 7, then the Governor shall	
Governor shall appoint that Elector.		appoint that Elector.	
(c) Standard for Decision by General		(c) Standard for Decision by General	
Assembly and Governor. – In exercising		Assembly and Governor. – In exercising	
their authority under subsections (a) and		their authority under subsections (a) and	
(b) of this section, the General Assembly		(b) of this section, the General Assembly	
and the Governor shall designate		and the Governor shall designate	
Electors in accord with their best		Electors in accord with their best	
judgment of the will of the electorate.		judgment of the will of the electorate.	
The decisions of the General Assembly		The decisions of the General Assembly	
or Governor under subsections (a) and		or Governor under subsections (a) and	
(b) of this section are not subject to		(b) of this section are not subject to	
judicial review, except to ensure that		judicial review, except to ensure that	
applicable statutory and constitutional		applicable statutory and constitutional	
procedures were followed. The judgment		procedures were followed. The judgment	
itself of what was the will of the		itself of what was the will of the	
electorate is not subject to judicial		electorate is not subject to judicial	
review.		review.	
(d) Proclamation Before Electors'		(d) Proclamation Before Electors'	
Meeting Day Controls. – If the		Meeting Day Controls. – If the	
proclamation of any Presidential Elector		proclamation of any Presidential Elector	
under G.S. 163-216.3 is made any time		under G.S. 163-210 is made any time	
before 12:00 noon on the day set for the		before noon on the day set for the	
meeting of Presidential Electors by 3		meeting of Presidential Electors by 3	
U.S.C. § 7, then that proclamation shall		U.S.C. § 7, then that proclamation shall	
control over an appointment made by the		control over an appointment made by the	
General Assembly or the Governor. This		General Assembly or the Governor. This	
section does not preclude litigation		section does not preclude litigation	
otherwise provided by law to challenge		otherwise provided by law to challenge	
the validity of the proclamation or the		the validity of the proclamation or the	
procedures that resulted in that		procedures that resulted in that	
proclamation.		proclamation.	

#### OTHER RELEVANT PROVISIONS OF LAW

#### NC Constitution - Article VI, Sec. 9. Dual office holding.

- (1) Prohibitions. It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.
- (2) Exceptions. The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

# § 11-7. Oath or affirmation to support Constitutions; all officers to take.

Every member of the General Assembly and every person elected or appointed to hold any office of trust or profit in the State shall, before taking office or entering upon the execution of the office, take and subscribe to the following oath:

"I, \_\_\_\_\_\_\_, do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God." (1781, c. 342, s. 1, P.R.; R.C., c. 76, s. 4; Code, s. 3312; Rev., s. 2358; C.S., s. 3194; 1985, c. 756, s. 5.)

# § 128-1.1. Dual-office holding allowed.

- (a) Any person who holds an appointive office, place of trust or profit in State or local government is hereby authorized by the General Assembly, pursuant to Article VI, Sec. 9 of the North Carolina Constitution, to hold concurrently one other appointive office, place of trust or profit, or an elective office in either State or local government.
- (b) Any person who holds an elective office in State or local government is hereby authorized by the General Assembly, pursuant to Article VI, Sec. 9 of the North Carolina Constitution to hold concurrently one other appointive office, place of trust or profit, in either State or local government.
- (c) Any person who holds an office or position in the federal postal system or is commissioned as a special officer or deputy special officer of the United States Bureau of Indian Affairs is hereby authorized to hold concurrently therewith one position in State or local government.
- (c1) Where authorized by federal law, any State or local law enforcement agency may authorize its law enforcement officers to also perform the functions of an officer under 8 U.S.C. § 1357(g) if the agency has a Memorandum of Agreement or Memorandum of Understanding for that purpose with a federal agency. State and local law enforcement officers authorized under this provision are authorized to hold any office or position with the applicable federal agency required to perform the described functions.
  - (c2) Repealed by Session Laws 2015-201, s. 3(b), effective August 5, 2015.

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(d) The term "elective office," as used herein, shall mean any office filled by election by the people when the election is conducted by a county board of elections under the supervision of the State Board of Elections. (1971, c. 697, s. 2; 1975, c. 174; 1987, c. 427, s. 10; 2006-259, s. 24(a); 2011-31, s. 13; 2014-100, s. 14.11(b); 2015-201, s. 3(b); 2015-241, s. 14.30(u); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

#### UNITED STATES CODE, TITLE 3—THE PRESIDENT, CHAPTER 1—PRESIDENTIAL ELECTIONS AND VACANCIES

## §1. Time of appointing electors

The electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President. (June 25, 1948, ch. 644, 62 Stat. 672.)

### §2. Failure to make choice on prescribed day

Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct. (June 25, 1948, ch. 644, 62 Stat. 672.)

### §3. Number of electors

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives. (June 25, 1948, ch. 644, 62 Stat. 672.)

## §4. Vacancies in electoral college

Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote. (June 25, 1948, ch. 644, 62 Stat. 673.)

# §5. Determination of controversy as to appointment of electors

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned. (June 25, 1948, ch. 644, 62 Stat. 673.)

§6. Credentials of electors; transmission to Archivist of the United States and to Congress; public inspection

It shall be the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of the electors in such State by the final ascertainment, under and in pursuance of the laws of such State providing for such ascertainment, to communicate by registered mail under the seal of the State to the Archivist of the United States a certificate of such ascertainment of the electors appointed, setting forth the names of such

electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by section 7 of this title to meet, six duplicate-originals of the same certificate under the seal of the State; and if there shall have been any final determination in a State in the manner provided for by law of a controversy or contest concerning the appointment of all or any of the electors of such State, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate under the seal of the State to the Archivist of the United States a certificate of such determination in form and manner as the same shall have been made; and the certificate or certificates so received by the Archivist of the United States shall be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection; and the Archivist of the United States at the first meeting of Congress thereafter shall transmit to the two Houses of Congress copies in full of each and every such certificate so received at the National Archives and Records Administration. (June 25, 1948, ch. 644, 62 Stat. 673; Oct. 31, 1951, ch. 655, §6, 65 Stat. 711; Pub. L. 98–497, title I, §107(e)(1), (2)(A), Oct. 19, 1984, 98 Stat. 2291.)

### §7. Meeting and vote of electors

The electors of President and Vice President of each State shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct. (June 25, 1948, ch. 644, 62 Stat. 673.)

## §8. Manner of voting

The electors shall vote for President and Vice President, respectively, in the manner directed by the Constitution. (June 25, 1948, ch. 644, 62 Stat. 674.)

## §9. Certificates of votes for President and Vice President

The electors shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State. (June 25, 1948, ch. 644, 62 Stat. 674.)

## §10. Sealing and endorsing certificates

The electors shall seal up the certificates so made by them, and certify upon each that the lists of all the votes of such State given for President, and of all the votes given for Vice President, are contained therein. (June 25, 1948, ch. 644, 62 Stat. 674.)

# §11. Disposition of certificates

The electors shall dispose of the certificates so made by them and the lists attached thereto in the following manner:

First. They shall forthwith forward by registered mail one of the same to the President of the Senate at the seat of government.

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Second. Two of the same shall be delivered to the secretary of state of the State, one of which shall be held subject to the order of the President of the Senate, the other to be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection. Third. On the day thereafter they shall forward by registered mail two of such certificates and lists to the Archivist of the United States at the seat of government, one of which shall be held subject to the order of the President of the Senate. The other shall be preserved by the Archivist of the United States for one year and shall be a part of the public records of his office and shall be open to public inspection.

Fourth. They shall forthwith cause the other of the certificates and lists to be delivered to the judge of the district in which the electors shall have assembled. (June 25, 1948, ch. 644, 62 Stat. 674; Oct. 31, 1951, ch. 655, §7, 65 Stat. 712; Pub. L. 98–497, title I, §107(e)(1), Oct. 19, 1984, 98 Stat. 2291.)

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